

# September 2006

## Update: Friend of the Court Domestic Violence Resource Book (Revised Edition)

### CHAPTER 8

#### Criminal Court Proceedings Involving Domestic Violence

##### Part I—Elements of Common Domestic Violence Crimes

#### 8.1 Domestic Violence Crimes Generally

Effective August 24, 2006, 2006 PA 160 and 2006 PA 162 added several new crimes to the Michigan Penal Code. Insert the following bullets after the March 2006 update to page 216:

- ♦ Unlawful imprisonment.
- ♦ Human trafficking offenses.

# May 2006

## Update: Friend of the Court Domestic Violence Resource Book (Revised Edition)

### CHAPTER 2

#### Screening and Case Management

##### 2.13 Confidentiality of Records Identifying the Whereabouts of Abused Individuals

###### A. Confidentiality in Friend of the Court Records Generally

Delete the November 2005 update to page 58. In an order dated March 29, 2006, the Supreme Court reversed the Court of Appeals and remanded the case to that Court for further proceedings. *UAW v Dorsey*, 474 Mich 1097 (2006).

# March 2006

## Update: Friend of the Court Domestic Violence Resource Book (Revised Edition)

### CHAPTER 8

#### Criminal Court Proceedings Involving Domestic Violence

##### Part I—Elements of Common Domestic Violence Crimes

#### 8.1 Domestic Violence Crimes Generally

Effective March 1, 2006, 2005 PA 335 added a new crime, torture, to the Michigan Penal Code. Add the following bullet at the end of the bulleted list on page 216:

- ♦ Torture.

## Update: Friend of the Court Domestic Violence Resource Book (Revised Edition)

### CHAPTER 4

### Custody and Parenting Time

#### 4.9 Modifying Michigan Custody Determinations

##### A. Standard for Modification

Effective December 28, 2005, 2005 PA 328 amended MCL 722.27(1)(c), precluding a change of custody when a parent is on active military duty. At the bottom of page 119, and continuing to the top of page 120, replace the quotation of MCL 722.27(1)(c) with the following:

“(c) Modify or amend its previous judgments or orders for proper cause shown or because of change of circumstances until the child reaches 18 years of age and, subject to section 5b of the support and parenting time enforcement act, 1982 PA 295, MCL 552.605b,\* until the child reaches 19 years and 6 months of age. The court shall not modify or amend its previous judgments or orders or issue a new order so as to change the established custodial environment of a child unless there is presented clear and convincing evidence that it is in the best interest of the child. The custodial environment of a child is established if over an appreciable time the child naturally looks to the custodian in that environment for guidance, discipline, the necessities of life, and parental comfort. The age of the child, the physical environment, and the inclination of the custodian and the child as to permanency of the relationship shall also be considered. If a motion for change of custody is filed during the time a parent is in active military duty, the court shall not enter an order modifying or amending a previous judgment or order, or issue a new order, that changes the child’s placement that existed on the date the parent was called to active military duty, except the court may enter a temporary custody order

\*The referenced statute addresses post-majority child support.

if there is clear and convincing evidence that it is in the best interest of the child. Upon a parent's return from active military duty, the court shall reinstate the custody order in effect immediately preceding that period of active military duty. If a motion for change of custody is filed after a parent returns from active military duty, the court shall not consider a parent's absence due to that military duty in the best interest of the child determination."

**Note:** Effective December 28, 2005, 2005 PA 327 amended MCL 722.22 to define "active military duty" to be "when a reserve unit member or national guard unit member is called into active military duty." MCL 722.22(a).

# January 2006

## Update: Friend of the Court Domestic Violence Resource Book (Revised Edition)

### CHAPTER 1

#### Understanding Domestic Abuse

##### 1.6 Abusive Tactics

Effective January 1, 2006, 2005 PA 184 amended MCL 780.811(1)(a). The amendment expanded the list of “serious misdemeanors” to include misdemeanor violations of MCL 750.145d, using the internet or a computer to make a prohibited communication, and violations of MCL 750.233, intentionally aiming a firearm without malice. MCL 780.811(1)(a)(vii) and (viii). On page 17, add these offenses to the cross-reference, indicated with \*, addressing MCL 780.811(1)(a).

## **CHAPTER 2**

### **Screening and Case Management**

#### **2.13 Confidentiality of Records Identifying the Whereabouts of Abused Individuals**

##### **C. Confidentiality of Information Disclosed in Responsive Pleadings, Motions, and Court Judgments or Orders**

Effective January 1, 2006, MCR 3.211(D) was amended. At the bottom of page 63, replace the second bullet with the following text:

MCR 3.211(D)(1) requires all orders for child support or spousal support be prepared and submitted on the standard Uniform Support Order form. MCR 3.211(F) requires the use of a “Judgment Information Form,” which includes sensitive personal information regarding parties and their families. The Staff Comment to the amended rule indicates that MCR 3.211(F) “allows personal information concerning a party to be provided to the friend of the court in a document separate from the court order, which is a public document.”

## **CHAPTER 8**

### **Criminal Court Proceedings Involving Domestic Violence**

#### **Part II—Criminal Procedures That May Affect Domestic Relations Proceedings**

##### **8.7 Conditional Release on Bond Prior to Trial**

###### **C. Contents of Conditional Release Orders**

Effective January 1, 2006, MCR 6.106(D)(2) was amended. Insert the following new provision “(m)” in the quoted text near the middle of page 234, and reletter the existing “(m)” and “(n)” accordingly.

“(m) comply with any condition limiting or prohibiting contact with any other named person or persons. If an order under this paragraph limiting or prohibiting contact with any other named person or persons is in conflict with another court order, the most restrictive provision of each order shall take precedence over the other court order until the conflict is resolved.”

###### **E. Conditional Pretrial Release Orders and Concurrent Domestic Relations Proceedings**

Effective January 1, 2006, MCR 6.106(D)(2)(m) provides that if a pretrial release order limiting or prohibiting contact with any other named person conflicts with another court order, “the most restrictive provision of each order shall take precedence over the other court order until the conflict is resolved.” On page 235, conflicting court orders are addressed. Add consideration of MCR 6.106(D)(2)(m) to the existing text.